

Docket No.: 050229-0343



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
Christopher lewis SCHARDL	:	Confirmation Number: 7548
Application No.: 10/601,700	:	Group Art Unit: 1652
Filed: June 24, 2003	:	Examiner: Kagnew H. Gebreyesus

For: LOLINE ALKALOID GENE CLUSTERS OF THE FUNGAL ENDOPHYTE  
NEOTYPHODIUM UNCINATUM

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Restriction Requirement mailed December 29, 2005 and setting forth a one month period for response. Accordingly, this response is due on or before Monday, January 30, 2006.

In the Restriction Requirement, the examiner set forth twenty groups of claims directed to different polynucleotide sequences from which applicant must elect a single invention.

Applicant elects, with traverse, Group VII, including claims 1, 14 and 21-25 in part, directed to a polynucleotide sequence consisting of or complementary to ORF8 encoding a  $\gamma$ -type peroxidal phosphate enzyme within SEQ ID NO: 15, host cells, and method.

It is respectfully submitted that the claims of Group XVIII (claims 2, 3, 13 and 21-25 in part), which are directed to a polynucleotide sequence consisting of or complementary to ORF8 encoding a  $\gamma$ -type peroxidal phosphate enzyme within SEQ ID NO: 16, host cells, and method, overlap with the claims of Group VII. The  $\gamma$ -type peroxidal phosphate enzyme genes of SEQ ID

10/601,700

NO: 15 and SEQ ID NO: 16 in Groups VII and XVIII share over 95% sequence similarity within their coding sequences. Thus, it would not be an undue burden on the examiner to search these two nearly identical genes.


Moreover, MPEP §2434 allows for the examination of a reasonable number of nucleotide sequences in a single patent application; up to ten sequences are indicated as reasonable. Applicant requests only that these two nearly identical sequences be joined in the present application.

Entry of the Response to the Restriction Requirement and favorable consideration are respectfully believed to be in order and respectfully requested. However, if any issues remain outstanding, the examiner is respectfully requested to contact the undersigned so the prosecution may be expedited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**Date: January 25, 2006**

**Please recognize our Customer No. 20277  
as our correspondence address.**